

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

IN ADMIRALTY

NEW ENGLAND BOATWORKS, INC. and SHM
NEB, LLC d/b/a SAFE HARBOR NEW
ENGLAND BOATWORKS

Plaintiffs,

C.A. No.: 1:20-cv-00189-MSM-PAS

-against-

AURORA, a 2008 67-foot Uniesse Marine SRL
motor yacht (Official # 1209706), its engines,
generators, electronics, tackle, tender, furnishings,
contents, storage containers, bunkers,
appurtenances, etc., in rem; YACHTING
REVOLUTION, LTD., in personam; and MARC
TRACHTENBERG, in personam,

Defendants.

-against-

M & T BANK

Intervenor

INTERVENOR M & T BANK'S RULE 16
SETTLEMENT CONFERENCE STATEMENT

On or April 29, 2020, Plaintiff filed a Verified Complaint against Defendant, Marc Trachtentberg as the principal and/or alter ego of Defendant, Yachting Revolution, Ltd and against the vessel "Aurora" in rem seeking to enforce a maritime lien for so-called "necessaries" resulting from repair work rendered to the vessel and storage costs. The vessel was arrested by the U.S. Marshall and remains in the care of a duly appointed substitute custodian.

Pursuant to Local Admiralty Rule E (8) (a) M & T Bank filed a Verified Intervenor Complaint, Motion to Arrest, Statement of Claim and an Answer to Plaintiff's Verified Complaint in order to assert and protect its priority maritime lien under a Marine Promissory Note and Preferred Ships Mortgage. As part of this procedure, this Court issued a Warrant of Arrest and the vessel was arrested by the U.S. Marshall on behalf of M & T Bank. Defendant, Marc Trachentberg the principal and/or alter ego of Defendant, Yachting Revolution, Ltd., is and has always been current on the loan obligations with M & T Bank.

As set forth in M & T Bank's Statement of Claim (Doc No.: 32)

1. M & T Bank is the successor-in-interest to Provident Bank of Maryland.
2. That on or about February 8, 2008, Provident Bank of Maryland loaned the Vessel's owner, Defendant Yachting Revolution, Ltd the sum of \$1,960,000.00 to purchase and acquire the Vessel as set forth in a Marine Promissory Note.
3. The Marine Promissory Note is guaranteed by Defendant, Marc Trachentberg the principal and/or alter ego of Defendant, Yachting Revolution, Ltd.
4. The Marine Promissory Note was secured by a Preferred Ships Mortgage which was duly recorded with the United States Coast Guard's National Vessel Documentation Center in accordance with the Ship Mortgage Act of 1920 on March 6, 2008.
5. That M & T Bank's preferred ships mortgage predates any of the services and supplies ("necessaries") rendered to the Vessel by Plaintiffs'.
6. That M&T Bank's Preferred Ship Mortgage is a superior maritime lien to any maritime claims or liens asserted for "necessaries" by Plaintiffs' as set forth and described in their Verified Complaint.

7. That M&T Bank is entitled to recover the full amount of its Preferred Ship Mortgage lien before any subordinate lien is paid or satisfied.
8. That M&T Bank is entitled to credit bid up to the full amount of its in rem judgment should this Court order a U.S. Marshall sale of the vessel.
9. If a third-party purchases the Vessel at a Court ordered U. S. Marshall's sale, M&T Bank is entitled to recover the full amount of its judgment, namely the full monetary amount outstanding under the Marine Promissory Note and Preferred Ship Mortgage from the Vessel sale proceeds before lower ranking liens are paid.
10. That Defendant, Yachting Revolution Ltd., (hereinafter "mortgagor") is and has been current on its note and mortgage obligations to M & T Bank.

Accordingly, it is M & T Bank's position that should this Court order a sale of the vessel that it be awarded the full monetary amount outstanding under the Marine Promissory Note and Preferred Ship Mortgage from the Vessel sale proceeds before lower ranking liens are paid because its maritime lien is superior to Plaintiff's lien for "necessaries" incurred after the recording of its maritime lien.

M & T Bank
By their attorneys,
ORSON and BRUSINI, LTD.

"/s/ Keith B. Kyle"
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CERTIFICATE OF SERVICE

Pursuant to LR Gen 309, I hereby certify that the above document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on October 15th, 2020.